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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, CAM N

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

04/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,943	Applicant(s) WOLF ET AL.	
	Examiner Cam N. Nguyen	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on an election filed on 12/23/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 1-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08/10/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-10, in the reply filed on 12/23/09 is acknowledged. The traversal is on the ground(s) that “*search each claim group would not impose a serious burden on the U.S. Patent Office, as the Examiner would almost certainly cite the same reference in one group against the other group, etc...*” This is not found persuasive because the method of making the catalyst of Group II does not contain the same limitations as recited in the product claims of Group I. Also, the patentability of the product and the process claims are separately determined. However, if the elected product claims are found allowable, the process claims of Group II will automatically rejoined in accord with the MPEP rule. For purposes of search and examination on the merits, the restriction is maintained.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 11-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/23/09.

Information Disclosure Statement

3. The information disclosure statement filed 08/10/06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the U.S. Pat. (or PG. Pub. No.) 2004/001782 A1 listed on Form-1449 is an invalid or not found document in the PTO Database. It has been

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placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

4. The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical, and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any further amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of the copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

The status of the parent application(s) and/or any other application(s) cross-referenced to this application, **if any**, should be updated in a timely manner.

Claim Objections

5. **Claims 1 & 6** are objected to because of the following informalities:

A. In claim 1, line 1-2, "on a honeycomb carrier a catalytic coating" should be changed to recite --a catalytic coating on a honeycomb carrier--.

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B. In claim 6, line 3, "or" should be changed to --and--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 (Second paragraph)

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "as palladium" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 & 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemingway et al., hereinafter referred to as "***Hemingway '086***", (US Pat. 5,510,086).

Hemingway '086 discloses a catalytic converter system controlling vehicle exhaust emissions comprising: a catalyst package comprising a substrate; said substrate having first, second, and third catalytic zones positioned respectively within the direction of exhaust flow

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traveling through the catalyst system; said zones being defined within said substrate by different coatings on said substrate, said first zone having a light-off catalyst coating said second zone having an adsorber/catalyst coating for adsorption of hydrocarbon, said third zone having a catalyst coating for converting CO and NO_x constituents in the exhaust flow, and said second zone being immediately adjacent to said first and third zones (see col. 2- col. 3, claim 1). The coatings in the first, second, and third zones contain precious metals (see col. 3- col. 4. claims 2-6). The first zone has a palladium loading of greater than 150 grams/ft³, the second zone has palladium loading of greater than 50 grams/ft³, and the third zone has a platinum/rhodium loading of about 25-50 grams/ft³ (see col. 2, ln 21-47).

The substantive difference between the claimed catalyst and the disclosed catalyst material is that, the metal concentrations of the catalytically active precious metal(s) in the first, second, and third zones are not the same as being required, which is "*a low concentration in the first or upstream region at the inlet face of the carrier and with a steep increase to a peak concentration in the second or intermediate region and a third concentration in the third or downstream region which is equal to or lower than the peak concentration in the second region*".

However, it would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have predetermined optimum amounts of such catalytically active metals in the first, second, and third zones in order to achieve an effective catalytic converter system because it is a results-effective variable, in view of *In re Boesch*.

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Allowable Subject Matter

8. **Claims 2-5** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Citations

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

Conclusion

10. Claims 1-19 are pending. Claims 1 & 6-10 are rejected. Claims 1-6 are objected. Claims 11-19 are withdrawn due to nonelected (distinct) invention(s). No claims are allowed.

Contacts

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

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/C. N. N./

April 9, 2010